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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,197	03/24/2004	Warren P. Williamson IV	LPSL-04A	4574

26875 7590 01/19/2005  
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EXAMINER

JOHNSON, STEPHEN

ART UNIT PAPER NUMBER

3641

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/808,197

Applicant(s)

WILLIAMSON ET AL.

Examiner

Stephen M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) 5,8,9,12-17,19-21,29 and 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6,10,11,18,22-26,28,31,33-36 and 41-46 is/are rejected.
- 7) ☒ Claim(s) 3,7,27,32,37-40 and 47-49 is/are objected to.
- 8) ☒ Claim(s) 1-49 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/30/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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1. Applicant's election without traverse of species N (figs. 27, 28, 29, 30, and 31) in the reply filed on 11/10/2004 is acknowledged.

Claims 5, 8-9, 12-17, 19-21, and 29-30 are withdrawn from consideration as being directed to non-elected species. Claims 29-30 contain claim limitations directed to "a binary firearm level indicating signal" and "binary visual indicators". Such features are not present in the elected species.

Claims 1-4, 6-7, 10-11, 18, 22-28, and 31-49 read on the elected species and an action on these claims follows.

2. Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 22, line 17, the phrase "the central vision primary circle" lacks an antecedent. In claim 22, line 18, the phrase "the central vision" lacks an antecedent.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 6, 10-11, 18, 24-26, and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Obert et al..

Obert et al. disclose a tilt indicator comprising :

a) an eyepiece;

1, 2, 3

b) a firearm;

see fig. 1

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- c) a targeting display; 10, 11
- d) a firearm level indicating system; and 6, 7
- e) an outer perimeter. see fig. 2

5. Claims 31, 33, 35-36, and 41-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Parks.

Parks discloses a tilt indicator comprising :

- a) an eyepiece including ocular housing; 11, 43
- b) a firearm; see fig. 1, 2
- c) at least one signal indicator; 103, 105
- d) tilt sensing circuitry; 79, 81, 83
- e) a controller; 91, 93, 95

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parks in view of Duerst.

Parks applies as previously recited. However, undisclosed is a signal indicator that is an LED. Duerst teaches a signal indicator that is an LED (28, 29). Applicant is substituting one illuminating signal indicator for another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of

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Duerst to the Parks tilt indicator and have a tilt indicator with a different type of illuminating signal indicator.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Obert et al. in view of Parks.

Obert et al. apply as previously recited. However, undisclosed is a firearm tilt indicator that consists of illuminating elements. Parks teaches a firearm tilt indicator that consists of illuminating elements (103, 105). Applicant is substituting one type of firearm tilt indicator for another in an analogous art setting as explicitly encouraged by the secondary reference (see col. 2, lines 42-45 of Parks). It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Parks to the Obert et al. tilt indicator and have a tilt indicator of a different type.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Obert et al. in view of Parks as applied to claim 23 above, and further in view of Duerst.

Obert et al. and Parks apply as previously recited. However, undisclosed is a signal indicator that is an LED. Duerst teaches a signal indicator that is an LED (28, 29). Applicant is substituting one illuminating signal indicator for another in an analogous art setting. It would have been obvious to a person of ordinary skill in this art at the time of the invention to apply the teachings of Duerst to the Obert et al. in view of Parks tilt indicator and have a tilt indicator with a different type of illuminating signal indicator.

10. Claim 22 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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11. Claims 3, 7, 27, 32, 37-40, and 47-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. London, Barlow, and Gaber disclose other state of the art indicators.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Johnson whose telephone number is 703-306-4158.

The examiner can normally be reached on Tuesday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 703-306-4198. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4177.



STEPHEN M. JOHNSON  
PRIMARY EXAMINER

Stephen M. Johnson  
Primary Examiner  
Art Unit 3641

SMJ  
January 14, 2005